

REMARKS

In accordance with the foregoing, the specification and claim 74 have been amended. Claims 47-59 and 62-80 are pending, with claims 47, 52, 53, 55, 62, and 67 being independent. Claims 47-59 and 62-80 are directed to elected Invention I. No new matter is presented in this Amendment.

Request for Detailed Review by Supervisory Patent Examiner

As discussed in detail below, there are an enormous number of deficiencies in the Office Action of January 5, 2011. It is submitted that the identification, discussion, and correction of these deficiencies represent an enormous waste of both the Office's limited resources and the applicants' limited resources. In light of this, it is respectfully requested that the Office Action of January 5, 2011, this Amendment, and any future Office Action that may be issued in this application be reviewed in detail by Supervisory Patent Examiner (SPE) Stephen S. Hong, or whichever SPE is currently in charge of this application, to prevent such deficiencies from occurring in the future.

Entry of Amendment After Final Rejection

In the Request for Continued Examination (RCE) of April 21, 2010, and on pages 1 and 12 of the Amendment Accompanying Request for Continued Examination of April 21, 2010, the applicants requested that the Amendment After Final Rejection of March 22, 2010, be entered.

However, the Office Action of August 20, 2010, does not indicate that the Amendment After Final Rejection of March 22, 2010, has been entered. Rather, page of the Office Action of August 20, 2010, merely states that "[t]his office action is in response to the Request for Continued Examination and the amendment filed on 21 April 2010, and the Information Disclosure Statements filed on 10 February 2010 and 22 March 2010," without mentioning the Amendment After Final Rejection of March 22, 2010. Furthermore, nothing in the image file wrapper indicates that the Amendment After Final Rejection of March 22, 2010, has been entered.

Accordingly, it is respectfully requested that the Office confirm that the Amendment After Final Rejection of March 22, 2010, has been entered and considered.

The applicants made this same request on page 10 of the Amendment of November 19, 2010. In response to this request, the Office states as follows on page 20 of the Office Action of January 5, 2011:

On page 10, Applicant requests that the Office confirm that the Amendment After Final filed on March 22, 2010, was entered and considered. However, the Examiner disagrees.

The Examiner respectfully submits that the Office mailed an Advisory Action out on 30 March 2010 stating that the Amendment After Final was not entered. The Examiner directs the Applicant to indicia #3 and #7 of the Advisory Action that clearly discloses that the proposed amendments were not entered. Therefore, the amendments filed on 22 March 2010 were not entered.

However, the Office has ignored the fact that the applicants specifically requested that the Amendment After Final Rejection of March 22, 2010, be entered and considered both in the Request for Continued Examination (RCE) of April 21, 2010, and on pages 1 and 12 of the Amendment Accompanying Request for Continued Examination of April 21, 2010, as the applicants were entitled to do by MPEP 706.7(h)(II), which states as follows on MPEP page 700-96 (emphasis added):

A "submission" as used in 37 CFR 1.114 includes, but is not limited to, an information disclosure statement, an amendment to the written description, claims, or drawings, new arguments, or new evidence in support of patentability. See 37 CFR 1.114(c). If a reply to an Office action under 35 U.S.C. 132 is outstanding, the submission must meet the reply requirements of 37 CFR 1.111. See 37 CFR 1.114(c). Thus, an applicant may file a submission under 37 CFR 1.114 containing only an information disclosure statement (37 CFR 1.97 and 1.98) in an application subject to a notice of allowance under 35 U.S.C. 151, but not in an application where the last Office action is a final rejection or an Office action under *Ex parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935), or in an application that is under appeal. A request for a suspension of action, an appeal brief or a reply brief (or related papers) will not be considered a submission under 37 CFR 1.114. See 37 CFR 1.103 and 1.114(d). The submission, however, may consist of the arguments in a previously filed appeal brief or reply brief, or may simply consist of a statement that incorporates by reference the arguments in a previously filed appeal brief or reply

brief. In addition, a previously filed amendment after final (whether or not entered) may satisfy this submission requirement.

Also, see MPEP 706.07(h)(III)(D), which states as follows on MPEP page 700-98 (emphasis added):

If the conditions for filing an RCE have been satisfied, the technical support personnel will process the proper RCE. Any previously filed unentered amendments, and amendments filed with the RCE will normally be entered. Such amendments will be entered in the order in which they were filed in the absence of any specific instructions for entry.

Accordingly, it is submitted that the Office was required to enter and consider the Amendment After Final Rejection of March 22, 2010, as requested by the applicants in the Request for Continued Examination (RCE) of April 21, 2010, and the Amendment Accompanying Request for Continued Examination of April 21, 2010, and it is respectfully requested that the Office confirm in the next Office Action that the Amendment After Final Rejection of March 22, 2010, has been entered and considered.

Information Disclosure Statement of February 10, 2010

On page 3 of the Office Action of August 20, 2010, the Office states that JP 11-161663 cited in the Information Disclosure Statement of February 10, 2010, has not been considered for the following reason:

Applicant submitted a copy of the reference JP 11-161663 to the Examiner and listed on the IDS to view 20030152366 or 2008159721 for a *[sic]* English transition *[sic]*. However neither of the US PG Pubs submitted fail to list JP 11-161663 under the Foreign Application Priority Data in either of its front page. Thus, its *[sic]* unclear if 20030152366 or 2008159721 is an actual translation of the Japanese Application 11-161663 resulting in the IDS failing to comply with 1.98(a)(3)(ii).

However, JP 11-161663 is a publication number. The application number and application filing date of JP 11-161663 are JP 9-328595 and November 28, 1997, as indicated by INID Codes 21 and 22 on page 1 of JP 11-161663. See the definition of INID Codes 21 and 22 in MPEP 901.05(b) on MPEP page 900-17. The Foreign Application Priority Data on the front pages of US 2003/0152366 and US 2008/0159721 indicates that US 2003/0152366 and US

20080159721 claim the benefit of JP 9-328595 filed on November 28, 1997, as well as two other Japanese patent applications, such that US 2003/0152366 and US 20080159721 are in fact U.S. counterparts of JP 11-161663 as indicated in the Information Disclosure Statement of February 10, 2010. Accordingly, it is submitted that US 2003/0152366 and US 20080159721 should be considered as being actual English translations of JP 11-161663, thereby providing the concise explanation of the relevance of JP 11-161663 required by 37 CFR 1.98(a)(3)(i) pursuant to MPEP 609.04(a)(III) (see MPEP page 600-153, right column).

On page 3 of the Office Action of August 20, 2010, the Office states that the Japanese Office Action cited in the Information Disclosure Statement of February 10, 2010, has not been considered for the following reason:

[T]he Applicant submitted a Japanese Office Action; however, failed to provide a copy, or a portion, of the JP Office Action with an English-language translation. Thus, the IDS failed to comply with 1.98(a)(3)(ii).

However, 37 CFR 1.98(a)(3)(ii) states an Information Disclosure Statement filed under 37 CFR 1.97 shall include "[a] copy of the translation if a written English-language translation of a non-English-language document, or portion thereof, is within the possession, custody, or control of, or is readily available to any individual designated in § 1.56(c)." Thus, 37 CFR 1.98(a)(3)(ii) does not require an applicant to prepare an English translation of a foreign Office Action. Furthermore, the Japan Patent Office does not provide English translations of Japanese Office Actions.

In any event, the relevance of the Japanese Office Action is that it cites JP 11-161663 as can be seen from page 3 of the Japanese Office Action. Accordingly, it is submitted that Japanese Office Action itself provides the concise statement of relevance required by 37 CFR 1.98(a)(3)(i). Alternatively, it is submitted that the preceding statement about the relevance of the Japanese Office Action provides the concise statement of relevance required by 37 CFR 1.98(a)(3)(i).

For at least the foregoing reasons, it is respectfully requested that JP 11-161663 and the Japanese Office Action cited in the Information Disclosure Statement of February 10, 2010, be considered.

The above arguments were also presented on pages 10-12 of the Amendment of November 19, 2010. In response to these arguments, the Office states as follows on page 19 of the Office Action of January 5, 2011:

Applicant's arguments, see page [sic] 10-11, filed 11/19/2010, with respect to the IDS filed on 2/10/2010 in which Applicant argues that US PGPubs 20030152366 and 20080159721 are US counterparts of JP 11-161663 and should be view [sic] as actual English translations of JP 11-161663 have been fully considered and persuasive [sic]. However, the IDS filed on 2/10/2010 is still not fully considered as described below.

Also, the Office states as follows on pages 20 and 21 of the Office Action of January 5, 2011:

On page 11, in regards to the IDS filed 2/10/2010, Applicant argues that it does not have English [sic] transition [sic] for the provided with [sic] the Japanese Office Action. In addition, Applicant states a [sic] English transition [sic] was not provided with the Japanese Office Action. Therefore, Applicant states it does not have to prepare an English transition [sic]. Furthermore the Applicant states the Japanese Office Action as its self [sic] provides the concise statement of relevance required. However, the Examiner disagrees. MPEP 1.98(a)(3)(i) states "A concise explanation of the relevance, as it is presently understood by the individual designated in § 1.56(c) most knowledgeable about the content of the information, of each patent, publication, or other information listed that is not in the English language. The Japanese office Action does not contain any English within the document. Therefore, there is no concise statement of relevance within the office action and the action cannot be considered as a concise explanation of relevance. Applicant must provide a concise explanation separate from the Japanese Office Action. In addition, MPEP 609.04(a)(II) states "If no translation is submitted, the examiner will consider the information in view of the concise explanation and insofar as it is understood on its face, e.g., drawings, chemical formulas, English language abstracts, in the same manner that non-English language information in Office search files is considered by examiners in conducting searches." And MPEP 609.04(a)(III) states "Each information disclosure statement must further include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information listed that is not in the English language." Since Applicant has not provided a [sic] English

translation or a (separate) concise explanation of the relevance of the Japanese Office action, the IDS remains not considered.

However, although the Office has explained why the Japanese Office Action cited in the Information Disclosure Statement of February 10, 2010, has not been considered, **the Office has not explained why JP 11-161663 cited in the Information Disclosure Statement of February 10, 2010, has not been considered.** In fact, it appears from the Office's statement that "Applicant's arguments, see page [sic] 10-11, filed 11/19/2010, with respect to the IDS filed on 2/10/2010 in which Applicant argues that US PGPubs 20030152366 and 20080159721 are US counterparts of JP 11-161663 and should be view [sic] as actual English translations of JP 11-161663 have been fully considered and persuasive [sic]" indicate that the Office agrees with the applicants that the Office was required to consider JP 11-161663. Accordingly, it is respectfully requested that JP 11-161663 be considered in the next Office Action.

Furthermore, with respect to the Office's statements that "the [Japanese Office] action cannot be considered as a concise explanation of relevance" and "Applicant must provide a concise explanation separate from the Japanese Office Action," it appears that the Office has overlooked the last sentence in the following passage in the applicants' arguments on page 11 of the Amendment of November 19, 2010 (emphasis added):

In any event, the relevance of the Japanese Office Action is that it cites JP 11-161663 as can be seen from page 3 of the Japanese Office Action. Accordingly, it is submitted that Japanese Office Action itself provides the concise statement of relevance required by 37 CFR 1.98(a)(3)(i). Alternatively, it is submitted that the preceding statement about the relevance of the Japanese Office Action provides the concise statement of relevance required by 37 CFR 1.98(a)(3)(i).

It is submitted that the first and last sentences in the above passage provide the "concise explanation separate from the Japanese Office Action" required by the Office. Accordingly, it is respectfully requested that the Japanese Office Action cited in the Information Disclosure Statement of February 10, 2010, be considered in the next Office Action.

It is respectfully requested that the Office provide, with the next Office Action:

(1) a copy of the Information Disclosure Statement of February 13, 2004, with a line drawn through the erroneous listing of US 2002/0059603 to prevent this erroneous listing from being used in printing the "References Cited" section of any patent that may

issue from the present application as requested on page 12 of the Amendment of November 19, 2010, and marked to indicate that the other references have been considered;

(2) a copy of the Information Disclosure Statement of February 10, 2010, with a line drawn through the erroneous listing of the Japanese Office Action to prevent this erroneous listing from being used in printing the "References Cited" section of any patent that may issue from the present application as requested on page 12 of the Amendment of November 19, 2010, and marked to indicate that the other references, including JP 11-161663, have been considered; and

(3) a copy of the Information Disclosure Statement of November 19, 2010, marked to indicate that US 2002/0059603 and the Japanese Office Action have been considered.

Claim Amendments

Claim 74 has been amended solely correct a typographical error in which the word "the" was missing.

Claim Rejections Under 35 USC 112

Claims 47-51 and 55-60 have been rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that the applicants regard as the invention. The rejection of claim 60 is moot since claim 60 was canceled in the Amendment of November 19, 2010. The rejection of claims 47-51 and 55-59 is respectfully traversed.

The Office considers the feature "a start-up mark-up document specifying which one of the plurality of mark-up documents . . . is to be interpreted by the presentation engine . . ." recited in independent claim 47 to be indefinite because, in the Office's words, "the claim fails to properly explain what it means by 'specifying' one of the documents to be interpreted or how the start-up document specifies another document to be interpreted making [sic] the claim vague and indefinite." Also, the Office considers the feature "a mark-up document . . . specifying whether to display the interactive contents associated with the AV data depending on a parental level set in the apparatus" recited in independent claim 55 to be indefinite because, in the Office's words, "the claim fails to properly explain what it means by 'specifying' or how the

document specifies on displaying the interactive contents or not making [sic] the claim vague and indefinite."

However, "specifying" is an English word, and has its usual meaning in claims 47 and 55, i.e., "to state explicitly or in detail" (*American Heritage Dictionary of the English Language*, Fourth Edition); "to mention or name specifically or definitely; state in detail" (*Dictionary.com Unabridged*, based on *Random House Dictionary*, 2011); "to refer to or state specifically" (*Collins English Dictionary*, Complete & Unabridged 10th Edition). Accordingly, it is submitted that one of ordinary skill in the art would have absolutely no difficulty whatsoever understanding what "specifying" means in claims 47 and 55, such that claims 47 and 55 are not "vague and indefinite" as alleged by the Office.

Furthermore, independent claim 1 of U.S. Patent No. 7,493,552, which issued from Application No. 10/612,415, the parent application of the present application, and is relied on by the Office in the nonstatutory obviousness-type double patenting rejection of claims 47, 52, 53, 55, 60, 62, and 67 of the present application in the Office Action of January 5, 2011, recites the following feature in column 14, lines 49-53, of U.S. Patent No. 7,493,552 (emphasis added):

a start-up mark-up document specifying which one of the plurality of mark-up documents corresponding to different parental levels is to be interpreted by the presentation engine depending on a parental level set in the reproduction apparatus.

This feature is almost identical to the feature of claim 47 of the present application that the Office now considers to be indefinite because of the word "specifying." However, the Examiner of the present application is the same Examiner who issued U.S. Patent No. 7,493,552, and apparently had no trouble understanding the word "specifying" in claim 1 of U.S. Patent No. 7,493,552. Accordingly, it is submitted that the Office cannot now take the position that the almost identical feature recited in claim 47 of the present application is vague and indefinite because the Office now cannot understand the word "specifying."

Furthermore, MPEP 1701 states as follows on MPEP page 1700-1:

Every patent is presumed to be valid. 35 U.S.C. 282, first sentence. Public policy demands that every employee of the United States Patent and Trademark Office (USPTO) refuse to express to any person any opinion as to the validity or invalidity of, or the patentability or unpatentability of any claim in any U.S. patent, except to the extent necessary to carry out

- (A) an examination of a reissue application of the patent,
- (B) a reexamination proceeding to reexamine the patent, or
- (C) an interference involving the patent.

It is submitted that the Office's statement that the use of "specifying" in claims 47 and 55 of the present application makes these claims "vague and indefinite" might arguably be interpreted to indicate that the Office also considers claim 1 of U.S. Patent No. 7,493,552 to be indefinite because it also uses the word "specifying." It is submitted that this constitutes an impermissible expression of an opinion by the Office as to the validity of claim 1 of U.S. Patent No. 7,493,552 under 35 USC 112, second paragraph. Accordingly, it is submitted that MPEP 1701 requires that the Office specifically rescind its statement and specifically state on the record that the use of "specifying" in claims 47 and 55 does not make these claims "vague and indefinite."

For at least the foregoing reasons, it is respectfully requested that the rejection of claims 47-51 and 55-59 (i.e., claims 47 and 55 discussed above and claims 48-51 and 56-59 depending directly or indirectly therefrom) under 35 USC 112, second paragraph, as being indefinite be withdrawn.

Claim Rejections Under 35 USC 103

Rejection 1

Claims 47, 50, 52-59, 62-70, 73, and 77-79 have been rejected under 35 USC 103(a) as being unpatentable over Lamkin et al. (Lamkin) (US 2002/0088011) (previously relied on) in view of Otsuka et al. (Otsuka) (US 2003/0044171) (newly cited) and Kanazawa et al. (Kanazawa) (US 6,580,870) (newly cited). This rejection is respectfully traversed.

Claim 47

It is submitted that Lamkin, Otsuka, and Kanazawa do not disclose or suggest the following features of independent claim 47:

- 47. A data storage medium comprising:
....

a plurality of mark-up documents corresponding to different parental levels; and

a start-up mark-up document specifying which one of the plurality of mark-up documents corresponding to different parental levels is to be interpreted by the presentation engine of the apparatus depending on a parental level set in the apparatus.

The Office apparently considers the index.htm file in paragraph [0075] of Lamkin, or the screenplay in HTML format in paragraph [0066], or the HTML page shipped with the DVD in paragraphs [0068] and [0070] of Lamkin, to be "a start-up mark-up document" as recited in claim 47, but admits that Lamkin does not disclose "a plurality of markup documents" as recited in claim 1. However, the Office considers Otsuka teach this feature, stating as follows:

Otsuka et al [sic] discloses allowing a user to browse HTML documents stored in the local optical disc. Otsuka discloses an AV interface displaying a [sic] HTML document (HTML menu) that includes links to other website documents. From the HTML menu, the user can select/retrieve another web document stored on the local optical disc. (Paragraph [sic] 0003, 0021, 0027) [sic] Since Otsuka discloses a first document being displayed, and the first document to retrieve a second document wherein both documents are stored on the disc, Otsuka discloses plurality [sic] of documents stored on the medium.

Paragraphs [0003], [0021], and [0027] of Otsuka relied on by the Office state as follows (emphasis added):

[0003] The invention allows optical disc players to seamlessly operate in two modes: in a video playback mode and a user agent mode. In video playback mode, the optical disc player functions to access and display video content stored on the local optical disc, such as would a standard DVD player. In video playback mode, the video menu is activated to allow a user to control the playback of the video content. In user agent mode, the optical disc player is configured to run a user agent program stored either in the local optical disc or optical disc player, to allow a user to browse websites (e.g. access HTML documents) available on a network and in the local optical disc, and perform various functions associated with the websites. Also in the user agent mode, the video content stored on the local optical disc may be shown within the user agent window. In user agent mode, the user agent menu is activated to allow a user to control the playback of the video content.

[0021] FIG. 2B illustrates a displaying device 250 coupled to the video/audio device interface 112 displaying a website document

(e.g. an HTML document) in user agent mode. As customary, the website document may include information, pictures, and links to other website documents. In addition, the website document may include a frame window for displaying the video content stored on the local optical disc 116. In this case, the HTML menu controls the playback of the video content stored on the local optical disc 116.

[0027] Then, in step 310, the processor 102 under the control of the program interpreter determines the operations mode of the optical disc player 100 specified in the mode variable. If the specified mode is video mode, in step 312 the processor 102 under the control of the program interpreter disables the video menu (i.e. the video menu provided in the input video stream). The corresponding HTML menu program (related to the video segment being displayed as determined by a content developer) runs in the background and the display device displays appropriate full screen video. This synchronizes the video stream with the HTML data. In step 320, the processor 102 continues video playback. In step 322, if the program interpreter needs to display menu option either through activation of the user control interface or the program application signal (based on menu, timer, or event), then in step 324 the corresponding HTML menu is displayed in the foreground. User can use the HTML menu to perform web related function, such as retrieving a web document from a network coupled to the network interface 110 or a web document stored on the local optical disc 116 or play video and web document simultaneously.

Although these paragraphs appear to indicate that a user can use the links in Otsuka's HTML menu to retrieve HTML documents stored on Otsuka's optical disc, it is not seen where these paragraphs provide support for the Office's statement that "Otsuka discloses a first document being displayed, and the first document to retrieve a second document wherein both documents are stored on the disc" as alleged by the Office. Accordingly, it is submitted that Otsuka cannot reasonably be considered to teach modifying the index.htm file in paragraph [0075] of Lamkin, or the screenplay in HTML format in paragraph [0066], or the HTML page shipped with the DVD in paragraphs [0068] and [0070] of Lamkin, which the Office considers to be "a start-up mark-up document" as recited in claim 47, to "specify] which one of the plurality of mark-up documents . . . is to be interpreted by the presentation engine of the apparatus" as recited in claim 47.

Furthermore, the Office admits that Lamkin and Otsuka do not disclose or suggest "documents corresponding to different parent [*sic*] levels and a document specifying which one

of the documents corresponds [sic] to different parental level [sic] to be interpreted depending on the parent [sic] level." However, the Office considers Kanazawa to teach this feature, stating as follows:

Kanazawa discloses analyzing the content of the web page and only selecting and retrieving web page/web page content that coincides with the set parental level. . . . Therefore, only the contents to be reproduced (displayed) are limited on the basis of the set level [sic] parental levels [sic]. In other words, only content (web pages) that matches the parental level requirements will be accessed while the other content will be restricted and in accessible.

FIG. 2 of Kanazawa shows a DVD 40 that includes title information 40a, which is AV information, and an information management table 40b, which is shown in detail in FIGS. 3 and 4 of Kanazawa, and includes access information 30. FIG. 4 of Kanazawa shows that the information management table 40b includes a table 40c "for defining the access information 30 on the basis of the parental information and is designed to select link information (URL display related information) on the basis of the parental information and connect the system to the optimum Web server" (see column 5, lines 55-63, of Kanazawa). FIG. 5 of Kanazawa shows that the first operation that is performed during a reproducing operation is to read the web display related information from the information management table 40b in step S1. As apparently recognized by the Office, Kanazawa does this in order to "only select[] and retriev[e] web page/web page content that coincides with the set parental level," to use the Office's words.

Thus, if one of ordinary skill in the art were to incorporate the teachings of Kanazawa into Lamkin, it is submitted that one of ordinary skill in the art would store Kanazawa's information management table 40b on the DVD 204 in FIG. 2 of Lamkin, and read the web display related information from the table 40c of Kanazawa's information management table 40b in order to determine whether to load the index.htm file in paragraph [0075] of Lamkin, or the screenplay in HTML format in paragraph [0066], or the HTML page shipped with the DVD in paragraphs [0068] and [0070] of Lamkin, which the Office considers to be "a start-up mark-up document" as recited in claim 47, in order to achieve Kanazawa's objective of "only selecting and retrieving web page/web page content that coincides with the set parental level." It is submitted that the web display related information in Kanazawa's information management table 40b cannot reasonably be considered to be "a start-up mark-up document" as recited in claim 47 because the objective of Kanazawa as stated by the Office is to "only select[] and retriev[e] web

page/web page content that coincides with the set parental level," and the web display related information in the table 40c in Kanazawa's information management table 40b is read without determining whether it "coincides with the set parental level."

Accordingly, it is submitted that the combination of Lamkin, Otsuka, and Kanazawa proposed by the Office does not provide the following feature of claim 47:

a start-up mark-up document specifying which one of the plurality of mark-up documents corresponding to different parental levels is to be interpreted by the presentation engine of the apparatus depending on a parental level set in the apparatus.

Claim 52

It is submitted that Lamkin, Otsuka, and Kanazawa do not disclose or suggest the following features of independent claim 52:

wherein the interactive directory comprises a plurality of sub-directories corresponding to a plurality of different parental levels; and

wherein the mark-up documents comprise a plurality of mark-up documents corresponding to the plurality of different parental levels stored in corresponding ones of the plurality of sub-directories corresponding to the plurality of different parental levels.

On page 8 of the Office Action of January 5, 2011, the Office states "Lamkin teaches various directories (i.e. directories and subdirectories) storing both DVD content and HTML content accordingly (Lamkin paragraph [sic] 0035, 0080, 0089-0090, 0099)." However, paragraph [0035] of Lamkin actually states "[t]he HTML content includes various directories that allow it to be accessed by multiple platforms of user devices." Paragraph [0099] of Lamkin actually states "[t]he common directory can support any number of subdirectories, including device specific subdirectories." Thus, these paragraphs of Lamkin actually disclose a plurality of directories corresponding to a plurality of different user device platforms, rather than "a plurality of sub-directories corresponding to a plurality of different parental levels" as recited in claim 52.

Nor is it seen how this feature of claim 52 can reasonably be considered to be taught by Otsuka and Kanazawa. The Office's discussion of Otsuka and Kanazawa on pages 8-10 of the Office Action of January 5, 2011, in the Office's explanation of the rejection of claim 52 is

identical to the Office's discussion of Otsuka and Kanazawa on pages 5 and 6 of the Office Action of January 5, 2011, in the Office's explanation of the rejection of claim 47 even though claims 47 and 52 recite different features. Nowhere in its explanation of the rejection does the Office identify anything whatsoever in Lamkin, Otsuka, and Kanazawa that would have motivated one of ordinary skill in the art to provide "a plurality of sub-directories corresponding to a plurality of different parental levels" as recited in claim 52 in the common directory referred to in paragraph [0099] of Lamkin. Accordingly, it is submitted that Lamkin, Otsuka, and Kanazawa do not disclose or suggest this feature of claim 52.

Furthermore, since Lamkin, Otsuka, and Kanazawa do not disclose or suggest "a plurality of sub-directories corresponding to a plurality of different parental levels" as recited in claim 52, it is submitted that Lamkin, Otsuka, and Kanazawa necessarily do not disclose or suggest the feature "wherein the mark-up documents comprise a plurality of mark-up documents corresponding to the plurality of different parental levels stored in corresponding ones of the plurality of sub-directories corresponding to the plurality of different parental levels" recited in claim 52.

Claim 53

It is submitted that Lamkin, Otsuka, and Kanazawa do not disclose or suggest the following features of independent claim 53 for at least the same reasons discussed above that Lamkin, Otsuka, and Kanazawa do not disclose or suggest the same features of claim 52:

wherein the interactive directory comprises a plurality of sub-directories corresponding to a plurality of different parental levels; and

wherein the mark-up documents comprise:

a plurality of mark-up documents corresponding to the plurality of different parental levels stored in corresponding ones of the plurality of sub-directories corresponding to the plurality of different parental levels.

Furthermore, it is submitted that Lamkin, Otsuka, and Kanazawa do not disclose or suggest the following feature of claim 53:

a start-up mark-up document comprising link information identifying locations of the plurality of mark-up documents corresponding to the plurality of different parental levels.

On page 10 of the Office Action of January 5, 2011, the Office states "[a]s per independent claim 53, Claim 53 recites similar limitations as in Claims 47 and 52 and is similarly rejected under rationale [sic]." However, claims 47 and 52 do not recite "a start-up mark-up document comprising link information identifying locations of the plurality of mark-up documents corresponding to the plurality of different parental levels" as recited in claim 53. Thus, the Office did not address this feature of claim 53 in explaining the rejection, such that it is impossible for the Office to have established a *prima facie* case of obviousness with respect to this feature of claim 53.

Although FIG. 4 of Kanazawa may arguably be considered to disclose "link information identifying locations of the plurality of mark-up documents corresponding to the plurality of different parental levels" as recited in claim 53 in the table 40c of the information management table 40b, it is submitted that the information management table 40b cannot reasonably be considered to be "a start-up mark-up document" as recited in claim 53 for at least the same reasons discussed above in connection with claim 47 that the information management table 40b cannot reasonably be considered to be "a start-up mark-up document" as recited in claim 47.

Claim 55

It is submitted that Lamkin, Otsuka, and Kanazawa do not disclose or suggest the following feature of independent claim 55:

wherein the mark-up documents comprise a mark-up document comprising, or linked to, display rule information for a plurality of different parental levels specifying whether to display the interactive contents associated with the AV data depending on a parental level set in the apparatus.

On page 11 of the Office Action of January 5, 2011, the Office states "[a]s per dependent [sic] claim 55, Claim 55 recites similar limitations as in Claims 47 and 52 and is similarly rejected under rationale [sic]." However, claim 55 is an independent claim, not a dependent claim as alleged by the Office. **The Office made this same mistake on page 10 of the Office Action**

of August 20, 2010, as the applicants pointed out on page 19 of the Amendment of November 19, 2010.

Furthermore, claims 47 and 52 do not recite the feature "wherein the mark-up documents comprise a mark-up document comprising, or linked to, display rule information for a plurality of different parental levels specifying whether to display the interactive contents associated with the AV data depending on a parental level set in the apparatus" recited in claim 55. Furthermore, the Office did not even mention this feature of claim 55 in the explanations of the rejection of claims 47 and 52 on pages 4-6 and 7-10 of the Office Action of January 5, 2011. Thus, the Office did not address this feature of claim 55 in explaining the rejection, such that it is impossible for the Office to have established a *prima facie* case of obviousness with respect to this feature of claim 55.

In particular, the Office has not identified the specific element(s) in Lamkin, Otsuka, and Kanazawa that it considers to correspond to the "display rule information for a plurality of different parental levels specifying whether to display the interactive contents associated with the AV data depending on a parental level set in the apparatus" recited in claim 55 as required by the decision of *Ex parte Levy*, 17 USPQ2d 1461, 1462 (Bd. Pat. App. & Inter. 1990) in which the Board of Patent and Appeals states as follows (emphasis added):

The factual determination of anticipation requires the disclosure in a single reference of each and every element of the claimed invention. (Citations omitted.) Moreover, it is incumbent upon the examiner to identify wherein each and every facet of the claimed invention is disclosed in the applied reference. (Citation omitted.)

Claim 58

It is submitted that Lamkin, Otsuka, and Kanazawa do not disclose or suggest the following features of dependent claim 58:

58. The data storage medium of claim 55, wherein elements of the mark-up documents each have a class attribute; and

wherein the display rule information for the plurality of different parental levels specifies whether to display each of the

elements depending on a value of the class attribute of the element and the parental level set in the apparatus.

The Office states as follows on page 12 of the Office Action of January 5, 2011:

As per dependent claim 58, Lampkin [sic] does not specifically teach displaying information (elements of a mark-up document allotted to class values) according to a "set parental level" (class values of elements based on display information). However, based on the rejection of Claim 52, 55, and the rationale incorporated, Kanazawa discloses blocking/restricting web content based upon a numerical (value) control (8 parental level values, 1-8) wherein these set predetermined values determine which elements, content and other information of the Web page to [sic] be displayed, and teaches specifying which content/web pages a user is allowed to access, based on the set parental level.

However, it is not understood why the Office has referred to "elements of a mark-up document allotted to class values" and "class values of elements based on display information" in explaining the rejection because these phrases do not appear in claim 58. Accordingly, it appears that the Office has not considered what is actually recited in claim 58, such that it is impossible for the Office to have established a *prima facie* case of obviousness with respect to the above features of claim 58 relating to a "class attribute."

Furthermore, the word "class" does not appear in Kanazawa, and accordingly it is not seen how Kanazawa can be considered to teach the above features of claim 58 relating to a "class attribute." Also, the Office has not explained why it considers Kanazawa to teach the above feature of claim 58 relating to a "class attribute," particularly since the Office never even mentions the term "class attribute" in discussing Kanazawa. Nor is it seen where Lamkin and Otsuka disclose or suggest a "class attribute" as recited in claim 58. Accordingly, it is submitted that the Office has not established a *prima facie* case of obviousness with respect to the above features of claim 58 relating to a "class attribute."

Claim 62

It is submitted that Lamkin, Otsuka, and Kanazawa do not disclose or suggest the following features of independent claim 62:

62. An apparatus to reproduce data recorded on a data storage medium, the data comprising audio/video (AV) data, and

mark-up documents to reproduce the AV data in an interactive mode, the mark-up documents comprising a mark-up document comprising display rule information for a plurality of different parental levels, the apparatus comprising:

an optical pickup to radiate laser beams on the data storage medium to read the mark-up documents and the AV data from the data storage medium;

an AV decoder to decode the AV data read by the optical pickup to reproduce the AV data;

a presentation engine to interpret the mark-up documents read by the optical pickup to generate a mark-up screen having an AV screen embedded therein; and

a blender to blend the mark-up screen generated by the presentation engine and the AV data reproduced by the decoder so that the reproduced AV data is displayed on the AV screen embedded in the mark-up screen;

wherein the presentation engine:

identifies a value of a predetermined attribute of an element of one of the mark-up documents; and

determines whether to display the element on the mark-up screen depending on the value of the predetermined attribute, the display rule information, and a parental level set in the apparatus.

On page 12 of the Office Action of January 5, 2011, the Office states "[a]s per independent claim 62, Claim 62 recites similar limitations as in Claims 47 and 52 and is similarly rejected under rationale [sic]." However, claims 47 and 52 do not recite the features of claim 62 that are underlined above.

On page 13 of the Office Action of January 5, 2011, the Office states as follows:

Lamkin discloses identifying parental level values (page 11, Right Column, ParentalLevelSelect(n)" command); however, fail [sic] to specifically disclose a presentation engine identifying a predetermined value of an element of the mark-up document and determining whether to display the element depending on the predetermined value, parental level and display rule information. However, based on the rejection of Claim 52, 55, and the rationale incorporated, Kanazawa discloses the ability to restrict the access of Web display related information (web page/web page content) based on a parental level wherein the access information is defined on the basis of parental information related to a parental function in system attribute information set in the system.

Kanazawa discloses analyzing the content of the web page and only selecting and retrieving web page/web page content that coincides with the set parental level. This is based upon a numerical (value) control (8 parental level values, 1-8) wherein these set predetermined values determine which elements, content and other information of the Web page to be displayed, and teaches specifying which content/web pages a user is allowed to access, based on the set parental level.

With respect to the Office's statement that "Lamkin discloses identifying parental level values (page 11, Right Column, 'ParentalLevelSelect(n)' command)," it is noted that page 11, right column, referred to by the Office states that the ParentalLevelSelect(n) command "selects parental level of player." Accordingly, it is submitted that Lamkin's "ParentalLevelSelect(n)" command does not "identify parental level values" alleged by the Office. **The applicants also pointed this out on page 21 of the Amendment of November 19, 2010, but the Office apparently ignored this when preparing the Office Action of January 5, 2011.**

Furthermore, claim 62 does not recite "identifying parental level values," but recites "identifying] a value of a predetermined attribute of an element of one of the mark-up documents," and it is submitted that Lamkin and Otsuka do not disclose or suggest this feature.

With respect to the Office's statement that "Kanazawa discloses analyzing the content of the web page and only selecting and retrieving web page/web page content that coincides with the set parental level," it is not seen where Kanazawa discloses "analyzing the content of the web page" as alleged by the Office. Rather, the table 40c of the information management table 40b in FIG. 4 of Kanazawa merely specifies link information (URL display related information) of Web pages that are to be accessed depending on the set parental level. Accordingly, it is submitted that Kanazawa does not disclose or suggest "identifying] a value of a predetermined attribute of an element of one of the mark-up documents" as recited in claim 62. In fact, the Office did not address this feature of claim 62 in explaining the rejection, such that it is impossible for the Office to have established a *prima facie* case of obviousness with respect to this feature of claim 62.

Furthermore, with respect to the Office's statements that "Kanazawa discloses analyzing the content of the web page and only selecting and retrieving web page/web page content that coincides with the set parental level," and that "[t]his is based upon a numerical (value) control (8 parental level values, 1-8) wherein these set predetermined values determine which elements,

content and other information of the Web page to be displayed," it is submitted that the "set predetermined values" of the parental levels in the table 40c of the information management table 40b in FIG. 4 of Kanazawa merely determine which Web page is to be accessed depending on the set parental level, and do not determine whether a particular element of a Web page is to be displayed. Accordingly, it is submitted that Kanazawa does not disclose or suggest "determin[ing] whether to display the element on the mark-up screen depending on the value of the predetermined attribute, the display rule information, and a parental level set in the apparatus" as recited in claim 62 as alleged by the Office.

Furthermore, it is not seen where Lamkin, Otsuka, and Kanazawa disclose or suggest "display rule information" for a plurality of different parental levels" as recited in claim 62. The Office has not identified the specific element(s) in Lamkin, Otsuka, and Kanazawa that it considers to correspond to the "display rule information" recited in claim 62 as required by the decision of *Ex part Levy* discussed above in connection with the similar feature of claim 55. Accordingly, it is submitted that the Office has not established a *prima facie* case of obviousness with respect to this feature of claim 62.

Claim 65

It is submitted that Lamkin, Otsuka, and Kanazawa do not disclose or suggest the following features of dependent claim 65:

wherein the predetermined attribute is a class attribute.

On page 14 of the Office Action of January 5, 2011, the Office states "[a]s per dependent claim 65, Claim 65 teaches similar limitations as in Claim 62 and is similarly rejected under rationale [*sic*]." However, claim 62 does not recite a "class attribute" as recited in claim 65. Thus, the Office has not actually addressed the above feature of claim 65 relating to a "class attribute" in explaining the rejection, such that it is impossible for the Office to have established a *prima facie* case of obviousness with respect to this feature of claim 65.

Furthermore, it is submitted that Lamkin, Otsuka, and Kanazawa do not disclose or suggest the above feature of claim 65 relating to a "class attribute" for at least the same reasons discussed above that Lamkin, Otsuka, and Kanazawa do not disclose or suggest the similar features of claim 58 relating to a "class attribute."

Claims 67-70, 73, and 77-79

Although the statement of the rejection on page 4 of the Office Action of January 5, 2011, indicates that claims 67-70, 73, and 77-79 have been rejected under 35 USC 103(a) as being unpatentable over Lamkin in view of Otsuka and Kanazawa, the Office did not even mention claims 67-70 in the explanation of the rejection on pages 4-15 of the Office Action of January 5, 2011. Accordingly, it is submitted that it is impossible for the Office to have established a *prima facie* case of obviousness with respect to claims 67-70. **Furthermore, should the Office provide an explanation of the rejection of claims 67-70 in the next Office Action, it is submitted that the Office cannot make that Office Action final.**

Furthermore, although the Office has provided an explanation of the rejection of claims 73 and 77-79 on page 15 of the Office Action of January 5, 2011, these are dependent claims that depend from independent claim 67 for which the Office has not established a *prima facie* case of obviousness as discussed above. Accordingly, it is submitted that the Office necessarily has not established a *prima facie* case of obviousness with respect to dependent claims 73 and 77-79, either.

Furthermore, it is submitted that Lamkin, Otsuka, and Kanazawa do not disclose or suggest the following features of independent claim 67:

- 67. An apparatus to reproduce data from a data storage medium,
 - the data comprising
 - audio/video (AV) data, and
 - mark-up documents to reproduce the AV data in an interactive mode by displaying the AV data on an AV screen embedded in a mark-up screen displaying interactive contents associated with the AV data,
 - the mark-up documents comprising a mark-up document comprising instructions corresponding to different parental levels to control display of the interactive contents associated with the AV data depending on a parental level set in the apparatus,
 - the apparatus comprising:
 - an optical pickup to radiate laser beams on the data storage medium to read the mark-up documents and the AV data from the data storage medium; and

a presentation engine to interpret the mark-up document comprising the instructions corresponding to the different parental levels in the mark-up documents read by the optical pickup to determine whether to display the interactive contents associated with the AV data depending on the parental level set in the apparatus.

Although FIG. 4 of Kanazawa may arguably be considered to disclose link information (URL display related information) corresponding to different parental levels in the table 40c of the information management table 40b (see column 5, lines 55-63, of Kanazawa), it is not seen how this link information (URL display related information) can reasonably be considered to be "instructions corresponding to different parental levels" as recited in claim 67. Furthermore, it is submitted that the information management table 40b cannot reasonably be considered to be "a mark-up document" as recited in claim 67 for at least the same reasons discussed above in connection with claim 47 that the information management table 40b cannot reasonably be considered to be "a start-up mark-up document" as recited in claim 47.

Conclusion—Rejection 1

For at least the foregoing reasons, it is respectfully requested that the rejection of claims 47, 50, 52-59, 62-70, 73, and 77-79 (i.e., claims 47, 52, 53, 55, 58, 62, 65, 67-70, 73, and 77-79 discussed above and claims 50, 54, 56, 57, 59, 63, 64, and 66 depending directly or indirectly from claims 47, 53, 55, and 62) under 35 USC 103(a) as being unpatentable over Lamkin in view of Otsuka and Kanazawa be withdrawn.

Rejection 2

Claims 48, 49, 51, 71, 72, 74-76, and 80 have been rejected under 35 USC 103(a) as being unpatentable over Lamkin in view of Otsuka, Kanazawa, and Berstis et al. (Berstis) (US 6,510,458) (previously relied on). This rejection is respectfully traversed.

Claims 48 and 74

It is submitted that Lamkin, Otsuka, Kanazawa, and Berstis do not disclose or suggest the following feature of dependent claim 48:

wherein the start-up mark-up document comprises:

meta-information indicating a parental level of the mark-up documents.

The Office admits that Lamkin, Otsuka, and Kanazawa do not disclose or suggest this feature of claim 48, but considers this feature to be taught by Berstis, stating as follows:

Berstis teaches HTML meta-information associated with parental levels (Berstis column 10 lines 10-19; col 12 lines 13-15; col 14 lines 60-67 -insert an extra header into the document before the contents of the document; col 15, lines 4-6, 12-25, – embedding in the document).

However, it is submitted that column 10, lines 10-19; column 12 lines 13-15; and column 14, lines 60-67, of Berstis do not teach "insert[ing] an extra header into the document before the contents of the document" as alleged by the Office. Rather, column 14, lines 60-63, of Berstis states "[t]he recommended method, if an HTTP server allows it, is to insert an extra header in the HTTP header stream that precedes the contents of documents that are sent to web browsers."

Furthermore, although column 15, lines 4-6, of Berstis states "a simpler but more limited method is to embed labels in HTML documents, but not with images, video, or anything else," the HTML document in which the label is embedded is the HTML document to which the label pertains.

In contrast, the meta-information included in the start-up mark-up document recited in claim 48 does not indicate a parental level of the start-up mark-up document, but indicates a parental level of other mark-up documents, i.e., "the mark-up documents" recited in claim 48. It is submitted that Berstis does not teach that a label embedded in one HTML document pertains to another HTML document as would be necessary for Berstis to arguably teach the above feature of claim 48.

Accordingly, for at least the foregoing reasons, it is submitted that Berstis does not teach the following feature of claim 48 as alleged by the Office:

wherein the start-up mark-up document comprises:

meta-information indicating a parental level of the mark-up documents,

or the following similar feature of dependent claim 74 as alleged by the Office:

wherein the mark-up document comprising the instructions corresponding to the different parental levels is a start-up mark-up document comprising:

meta-information indicating a parental level of the mark-up documents.

Claims 51, 71, 72, and 80

Although the propriety of the rejection is not conceded, it is submitted that dependent claims 51, 71, 72, and 80 depending from independent claims 47 and 67 are patentable over Lamkin, Otsuka, Kanazawa, and Berstis for at least the same reasons discussed above that claims 47 and 67 are patentable over Lamkin, Otsuka, and Kanazawa.

Conclusion—Rejection 2

For at least the foregoing reasons, it is respectfully requested that the rejection of claims 48, 49, 51, 71, 72, 74-76, and 80 (i.e., claims 48, 71, 72, 74, and 80 discussed above and claims 49, 75, and 76 depending from claims 48 and 74) under 35 USC 103(a) as being unpatentable over Lamkin in view of Otsuka, Kanazawa, and Berstis be withdrawn.

Double Patenting Rejections

Claims 47, 52, 53, 55, 60, 62, and 67 have been rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 4-7 of U.S. Patent No. 7,493,552, which issued from Application No. 10/612,415, the parent application of the present continuation application. The rejection of claim 60 is moot since claim 60 was canceled in the Amendment of November 19, 2010. This rejection of claims 47, 52, 53, 55, 62, and 67 is respectfully traversed.

This rejection was first set forth in the Office Action of June 22, 2010. However, the Office Action of June 22, 2010, did not include a Notice of References Cited (form PTO-892) listing U.S. Patent No. 7,493,552 as required by MPEP 707, which states as follows:

The list of references cited appears on a separate form, Notice of References Cited, PTO-892 (copy in MPEP § 707.05) attached to applicant's copies of the action.

Accordingly, it is respectfully requested that the Office provide, with the next Office Action, a PTO-892 listing U.S. Patent No. 7,493,552. **The applicants made this same request on page 24 of the Amendment of November 19, 2010, but the Office did not respond to this request in the Office Action of January 5, 2011.**

In explaining the rejection, the Office states as follows on pages 18 and 19 of the Office Action of January 5, 2011:

Although the conflicting claims are not identical, they are not patentably distinct from each other because they are substantially similar in scope and they use the same limitations, using varying terminology such that claims 47, 52, 53, 55, 60, 62, and 67 are generic to the claims 1, 4-7 of U.S. Patent 7,493,552. That is, claims 47, 52, 53, 55, 60, 62, and 67 are anticipated by claims 1, 4-7 of U.S. Patent 7,493,552 since claims 1, 4-7 of U.S. Patent 7,493,552 contains [sic] all the limitations of claims 47, 52, 53, 55, 60, 62, and 67 of Application No. 10/777900.

However, it is submitted that claims 1 and 4-7 of U.S. Patent No. 7,493,552 do not explicitly recite the following combination of features of independent claim 47:

mark-up documents to reproduce the AV data in an interactive mode by displaying the AV data on an AV screen embedded in a mark-up screen displaying interactive contents associated with the AV data when the mark-up documents are interpreted by a presentation engine of an apparatus to reproduce data in which the data storage medium is loaded;

wherein the mark-up documents comprise:

a plurality of mark-up documents corresponding to different parental levels; and

a start-up mark-up document specifying which one of the plurality of mark-up documents corresponding to different parental levels is to be interpreted by the presentation engine of the apparatus depending on a parental level set in the apparatus,

or the following combination of features of independent claim 52:

mark-up documents, stored in the interactive directory, to reproduce the AV data in an interactive mode by displaying the AV data on an AV screen embedded in a mark-up screen displaying

interactive contents associated with the AV data when the mark-up documents are interpreted by a presentation engine of an apparatus to reproduce data in which the data storage medium is loaded;

wherein the interactive directory comprises a plurality of sub-directories corresponding to a plurality of different parental levels; and

wherein the mark-up documents comprise a plurality of mark-up documents corresponding to the plurality of different parental levels stored in corresponding ones of the plurality of sub-directories corresponding to the plurality of different parental levels,

or the following combination of features of independent claim 53:

mark-up documents, stored in the interactive directory, to reproduce the AV data in an interactive mode by displaying the AV data on an AV screen embedded in a mark-up screen displaying interactive contents associated with the AV data when the mark-up documents are interpreted by a presentation engine of an apparatus to reproduce data in which the data storage medium is loaded;

wherein the interactive directory comprises a plurality of sub-directories corresponding to a plurality of different parental levels; and

wherein the mark-up documents comprise:

a plurality of mark-up documents corresponding to the plurality of different parental levels stored in corresponding ones of the plurality of sub-directories corresponding to the plurality of different parental levels; and

a start-up mark-up document comprising link information identifying locations of the plurality of mark-up documents corresponding to the plurality of different parental levels,

or the following combination of features of independent claim 55:

mark-up documents to reproduce the AV data in an interactive mode by displaying the AV data on an AV screen embedded in a mark-up screen displaying interactive contents associated with the AV data when the mark-up documents are interpreted by a presentation engine of an apparatus in which the data storage medium is loaded;

wherein the mark-up documents comprise a mark-up document comprising, or linked to, display rule information for a

plurality of different parental levels specifying whether to display the interactive contents associated with the AV data depending on a parental level set in the apparatus,

or the following combination of features of independent claim 62:

An apparatus to reproduce data recorded on a data storage medium, the data comprising audio/video (AV) data, and mark-up documents to reproduce the AV data in an interactive mode, the mark-up documents comprising a mark-up document comprising display rule information for a plurality of different parental levels, the apparatus comprising:

an optical pickup to radiate laser beams on the data storage medium to read the mark-up documents and the AV data from the data storage medium;

an AV decoder to decode the AV data read by the optical pickup to reproduce the AV data;

a presentation engine to interpret the mark-up documents read by the optical pickup to generate a mark-up screen having an AV screen embedded therein; and

a blender to blend the mark-up screen generated by the presentation engine and the AV data reproduced by the decoder so that the reproduced AV data is displayed on the AV screen embedded in the mark-up screen;

wherein the presentation engine:

identifies a value of a predetermined attribute of an element of one of the mark-up documents; and

determines whether to display the element on the mark-up screen depending on the value of the predetermined attribute, the display rule information, and a parental level set in the apparatus,

or the following feature of independent claim 67:

the mark-up documents comprising a mark-up document comprising instructions corresponding to different parental levels to control display of the interactive contents associated with the AV data depending on a parental level set in the apparatus.

Accordingly, it is submitted that claims 47, 52, 53, 55, 62, and 67 are not anticipated by claims 1 and 4-7 of U.S. Patent No. 7,493,552 as alleged by the Office.

The above arguments were also presented on pages 24-27 of the Amendment of November 19, 2010. In response to these arguments, the Office states as follows on pages 21-24 of the Office Action of January 5, 2011:

On pages 24-26 [*sic*], in regards to the double patenting rejection, Applicant argues that 7,493,552 do [*sic*] not discloses [*sic*] the following features discloses [*sic*] in claims 47, 52, 53, 55, 62, and 67 [here the Office proceeds to list the features of claims 47, 52, 53, 55, 62, and 67 discussed above that the applicants stated are not disclosed or suggested by claims 1 and 4-7 of U.S. Patent No. 7,493,552 on pages 24-27 of the Amendment of November 19, 2010]. However, the Examiner disagrees.

The Examiner respectfully states that although the conflicting claims are not identical, they are not patentably distinct from each other because they are substantially similar in scope and they use the same limitations, using varying terminology. In other words, both the claims 1, 4-7 [*sic*] of 7493552 and Claims 47, 52, 53, 55, 60, 62, and 67 of Application No. 10/777900 disclose similar functionality.

The Examiner respectfully states that 7493552 discloses the following features that Applicant stated that does [*sic*] not:

[Here the Office points out where it considers the features of claims 47, 52, 53, 55, 62, and 67 discussed above that the applicants stated are not disclosed or suggested by claims 1 and 4-7 of U.S. Patent No. 7,493,552 on pages 24-27 of the Amendment of November 19, 2010, to be disclosed in claims 1 and 4-7 of U.S. Patent No. 7,493,552 by column and line number, stating at several places "thus, similar in scope" and "therefore, similar in scope."]

Therefore, the limitations of 10/777900 are disclosed in the limitations of 7493552.

MPEP 804(II)(B)(1) states as follows on MPEP pages 800-21 and 800-22:

Any obviousness-type double patenting rejection should make clear:

(A) The differences between the inventions defined by the conflicting claims — a claim in the patent compared to a claim in the application; and

(B) The reasons why a person of ordinary skill in the art would conclude that the invention defined in the claim at issue is anticipated by, or would have been an obvious variation of, the invention defined in a claim in the patent.

Here, the Office considers claims 1 and 4-7 of U.S. Patent No. 7,493,552 to be similar in scope to claims 47, 52, 53, 55, 62, and 67 of the present application. However, it is submitted that merely stating that the claims of a patent are similar in scope to the claims of an application does not comply with the requirements of a nonstatutory obviousness-type double patenting set forth in MPEP 804(II)(B)(1) above. Since the Office considers claims 1 and 4-7 of U.S. Patent No. 7,493,552 merely to be similar in scope to claims 47, 52, 53, 55, 62, and 67 of the present application, it is submitted that this necessarily means that the Office recognizes that there are differences between claims 1 and 4-7 of U.S. Patent No. 7,493,552 and claims 47, 52, 53, 55, 62, and 67 of the present application. However, the explanation of the rejection provided by the Office does not make clear the differences between claims 1 and 4-7 of U.S. Patent No. 7,493,552 and claims 47, 52, 53, 55, 62, and 67 of the present application, and the reasons why a person of ordinary skill in the art would conclude that the invention defined in claims 1 and 4-7 of U.S. Patent No. 7,493,552 is anticipated by, or would have been an obvious variation of, the invention defined in claims 47, 52, 53, 55, 62, and 67 of the present application, as required by MPEP 804(II)(B)(1). Accordingly, it is submitted that the Office has not established a *prima facie* case of nonstatutory obviousness-type double patenting with respect to claims 47, 52, 53, 55, 62, and 67 of the present application.

Furthermore, submitted herewith is a terminal disclaimer directed to U.S. Patent No. 7,493,552 to overcome the nonstatutory obviousness-type double patenting rejection of claims 47, 52, 53, 55, 62, and 67 of the present application as suggested on page 18 of the Office Action of January 4, 2011.

For at least the foregoing reasons, it is respectfully requested that the rejection of claims 47, 52, 53, 55, 62, and 67 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 4-7 of U.S. Patent No. 7,493,552 be withdrawn.

Conclusion

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Office is requested to telephone the undersigned to attend to these matters.

Please charge any fees under 37 CFR 1.16 and 1.17 that may be required for this paper only to Deposit Account 50-5113 in the name of North Star Intellectual Property Law, PC.

Respectfully submitted,

Date: April 5, 2011

By: /Randall S. Svihla/
Randall S. Svihla
Registration No. 56,273

NSIP Law
1156 15th Street NW, Suite 603
Washington, DC 20005
Tel: (202) 429-0020
Fax: (202) 315-3758
CYP/RSS